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10/629,208

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EXAMINER

COOLMAN, VAUGHN

ART UNIT

PAPER NUMBER

3618

MAIL DATE

DELIVERY MODE

11/23/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/629,208

Applicant(s)

OZAWA ET AL.

Examiner

Vaughn T. Coolman

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 10-24 is/are pending in the application.
- 4a) Of the above claim(s) 11 and 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10, 12-15 and 17-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1, 6, 8, 10, 12, 13, 19-21, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Infante et al (W.O. 97/09223) in view of Seider (U.S. Patent No. 2,435,021).**

**[claims 1, 21, and 24]** Infante discloses a four-wheeled vehicle (FIG 1) including:

a steering mechanism having a bar handle (41);

a front part having right and left front wheels (24 and 24');

a rear part having right and left rear wheels (24'' and 24''');

a driver's seat (21) disposed at said front part;

a rear passenger seat (21') disposed behind said driver's seat with a backrest for the driver therebetween and the rear passenger seat facing forwardly, the rear passenger seat being entirely positioned forwardly of forwardmost points of the rear wheels (FIG 3). Infante further shows the front and rear wheels defining a straight line at a level extending in a longitudinal direction through the uppermost points of the front and rear wheels.

an engine (9) disposed below the rear passenger seat (21');

the vehicle having a width and an overall length;

Infante does not disclose the specific relationship between the width and length of the vehicle or show the rear passenger seat having bulged portions allowing two passengers to sit thereon side-by-side. Regarding the length and width relationship, Infante does disclose (page 7, claim 9) that the vehicle can utilize a wider chassis than that shown. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the vehicle of Infante by producing it in different and varying lengths and widths including an iteration wherein the width is substantially half the overall length. One of ordinary skill in the art at the time the invention was made would have no trouble resizing parts in order to produce a vehicle having the width to length ratio described above.

Seider teaches a vehicle with a bar handle steering mechanism, said vehicle having a rear passenger seat (a) disposed behind a driver's seat (145) wherein the rear passenger seat has bulged portions (portions rendering the seat wider than driver's seat) provided at opposite sides thereof for providing a larger width than the driver's seat, and the bulged portions would obviously allow the rear passenger seat to be occupied by two passengers sitting thereon side-by-side. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the vehicle shown by Infante with the rear passenger seat of Seider in order to provide the advantage of shortening the wheelbase of Infante's vehicle without reducing passenger capacity. Shortening the wheelbase would enhance handling even further.

Infante also does not show more of the driver's seat in side view being located below the straight line than above it. Infante does show the rear passenger seat being disposed at a higher level than the driver's seat. Examiner notes that one of the most common modifications to a four-wheeled vehicle is to replace the stock wheels with larger wheels. The vehicle shown by

Infante could certainly accommodate larger wheels. Inspection of FIG 3 of Infante appears to show that a larger wheel size would locate the driver's seat at substantially the same level as the straight line, such that in side view, more of the driver's seat is located below the straight line than above it so long as some of the driver's seat is located above the straight line, said vehicle with driver and passenger would still maintain a low center of gravity. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus shown by Infante with larger wheels in order to provide the advantage of higher speeds and visually pleasing customization as is common in the art.

In re claim 24 and the length and width requirements recited in lines 1-2, examiner notes that motorcycles come in many different lengths. For example a "pocket bike" is about 20 inches in overall length, whereas a "chopper" can be easily upwards of 16 feet in length. Furthermore, the size of a vehicle is a design choice that changes with the intended use of the vehicle. As such, the four-wheeled vehicle disclosed by Infante certainly meets the broadest reasonable interpretation of "having substantially the same overall length as a motorcycle".

**[claim 6]** Infante further shows the driver's seat and the rear passenger seat being opened at opposite sides thereof.

**[claim 10]** Infante further shows a front cover and a windshield disposed in front of said bar handle, and a body cover disposed behind and below said driver's seat (see phantom outlines in FIGS 1 and 2).

**[claim 12]** Infante does not explicitly disclose a torque converter mechanism. However, he does show a power unit part (16) disposed below one of said driver's seat and said rear passenger seat. Examiner notes that torque converters are old and well known in the vehicle arts

for automatic transmissions and it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus shown by Infante as modified by Seider with a torque converter between the engine and an automatic transmission in order to provide the advantage of increased torque during acceleration. The torque converter would be located between the differential (16) and the engine (9), thereby locating it below the level of all seats in the vehicle.

**[claim 13]** Infante further shows a transmission mechanism (16) for transmitting an output from said torque converter mechanism to said right and left rear wheels to drive said right and left rear wheels.

**[claim 19]** Infante further shows the engine being part of a power unit part (16) disposed below said rear passenger seat, said front wheel and said rear wheel providing a straight line extending through the vicinities of uppermost points thereof, said power unit part being disposed below said straight line.

**[claim 20]** Infante does not disclose the engine as being a forwardly directed engine. It is old and well known to provide a forwardly directed engine (cylinder and motion of piston being along the longitudinal axis of the vehicle as best understood by the Examiner) for narrow, low vehicles similar to that disclosed by Infante and it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus shown by Infante with a forwardly directed engine in order to provide the advantage of lowering the center of gravity to improve handling as compared to the vertically directed engine (9) that appears to be shown by Infante.

**Claims 2-5, 7, 14, 15, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Infante in view of Seider and further in view of Ethier (U.S. Patent No. 4,662,468).**

**[claim 2]** Infante in view of Seider discloses all of the elements of the claimed invention as described above in re claim 1, and Infante appears to show the driver's seat including a front part having driver's footrests ( 15 and the floor of the vehicle above item 15) provided at opposite sides thereof. Infante does not disclose the driver's seat being formed to allow a driver to sit astride said seat. However, Ethier teaches a vehicle having bar handle steering mechanism and two front wheels (3, 4) including a driver's seat (5) being formed to allow a driver to sit astride thereon (FIG 2) with his feet rested on footrests (17, 18). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus shown by Infante as modified by Seider with the straddle type seat of Ethier in order to provide the advantage of allowing a motorcycle type vehicle as shown by Infante to be driven in the position that a motorcycle driver is accustomed to, thereby increasing driver comfort.

**[claim 3]** Ethier further shows each of said footrests (17, 18) having a side edge projecting upwards (side body shown as a cut away in FIG 2).

**[claim 4]** The combination would disclose said right front wheel and said right rear wheel providing a first straight line extending therethrough, said left front wheel and said left rear wheel providing a second straight line extending therethrough, and said side edges being positioned within a region defined between said first and second straight lines when viewed in top plan (as shown by Ethier in FIG 1 or Infante in FIG 4).

**[claim 5]** Infante appears to show rear passenger footrests disposed behind said driver's footrests. Furthermore, both Ethier and Seider teach rear passenger footrests as shown in the figures of each inventor's disclosure.

**[claim 7]** In as much as applicant discloses a rear passenger seat that is formed to allow passengers to sit astride thereon, the combination of the rear passenger seats of Seider and Either with the vehicle of Infante also discloses such an arrangement. The motivation to provide a seat that a single rear passenger can sit astride in the combination is to provide a more equal left to right weight distribution in order to balance the vehicle better thereby improving handling.

**[claim 14]** Infante in view of Seider discloses all of the elements of the claimed invention as described above and Infante appears to show side support members (body panels shown in phantom) disposed on either side of the driver's seat. Ethier explicitly teaches first side support members (19, 20) disposed at opposite sides of said driver's seat. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus shown by Infante as modified by Seider with the side supports of Ethier in order to increase the safety and comfort of the passengers traveling in the vehicle.

**[claim 15]** Infante in view of Seider discloses all of the elements of the claimed invention as described above and Infante appears to show side support members (body panels shown in phantom) disposed on either side of the rear passenger seat. Ethier explicitly teaches second side support members (19, 20) disposed at opposite sides of said rear passenger seat. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus shown by Infante as modified by Seider with the side supports of Ethier in order to increase the safety and comfort of the passengers traveling in the vehicle.



**[claim 18]** Infante in view of Seider discloses all of the elements of the claimed invention as described above except for the driver's seat and the rear passenger seat cooperating with each other to provide a single seat. Ethier teaches a vehicle having bar handle steering mechanism and two front wheels (3, 4) including a driver's seat (5) and rear passenger seat cooperating with each other to provide a single seat. Ethier also teaches the driver's seat and passenger seat having a member disposed therebetween (column 4, lines 40-44). The member disposed therebetween would be the backrest or step-like feature created by the heightening of the rear section of the combination seat as taught by Ethier. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus shown by Infante as modified by Seider with the seat of Ethier in order to provide the advantage of allowing a motorcycle type vehicle as shown by Infante to be driven in the position that a motorcycle driver is accustomed to, thereby increasing driver comfort and the heightening of the rear passenger seat would provide greater comfort to the passenger.

**Claims 14, 15, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Infante in view of Seider and further in view of Saiki (U.S. Patent No. 4,804,221).**

**[claim 14]** Infante in view of Seider discloses all of the elements of the claimed invention as described above and Infante appears to show side support members (body panels shown in phantom) disposed on either side of the driver's seat. Saiki explicitly teaches first side support members (5, 6) disposed at opposite sides of a driver's seat. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus shown by

Infante as modified by Seider with the side supports of Saiki in order to increase the comfort and stability of the driver of the vehicle.

**[claim 15]** Infante in view of Seider discloses all of the elements of the claimed invention as described above and Infante appears to show side support members (body panels shown in phantom) disposed on either side of the rear passenger seat. Saiki explicitly teaches second side support members (5, 6) disposed at opposite sides of a rear passenger seat (Saiki states that the supports can be for either driver or passenger seat portion – column 1, lines 50-53). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus shown by Infante as modified by Seider with the side supports of Saiki in order to increase the comfort of the passenger traveling in the vehicle.

**[claim 17]** Saiki further discloses the backrest (4) disposed behind the driver's seat (7) being united with the first side support members (5, 6 – FIGS 1-4).

**Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Infante in view of Seider and further in view of Kurata (U.S. Patent No. 4,606,429).**

**[claim 22]** Infante in view of Seider discloses all of the elements of the claimed invention as described above in re claim 21 except for roll bars. Kurata teaches (see FIGS 1-3) a vehicle utilizing a similar seating configuration as that of Infante wherein a front roll bar (7) is disposed in front of a driver's seat (14) and in an upright position; a rear roll bar (9) is disposed behind a rear passenger seat (15) and in an upright position; and said front roll bar and said rear roll bar providing a straight line extending through the vicinities of top ends thereof, said straight line having a space defined therebelow to allow a driver and a rear passenger to sit on said

driver's seat and said rear passenger seat, respectively, within said space. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the vehicle shown by Infante as modified by Seider, with the roll bars as taught by Kurata, since such a modification would provide the advantage of protecting the passengers from head injury in the event of a rollover of the vehicle. Examiner reminds applicant of the previous examiner's observation wherein it was noted that the ability of a driver and passenger to sit within the space defined above is entirely dependent upon the height of each person, furthermore, sitting posture could also play a role in this limitation.

**[claim 23]** Infante further shows (FIG 3) the backrest being “positioned” at the same level as the waist of the driver sitting on the driver's seat.

#### ***Response to Arguments***

Applicant's arguments filed 09/05/2007 have been fully considered but they are not persuasive.

Regarding the claim limitation “disposed below”, Examiner is simply giving the claim terms the broadest reasonable interpretation. The term “disposed” as defined by Merriam-Webster's Online Dictionary 10<sup>th</sup> Edition means “to put in place”. The term “below” as defined by Merriam-Webster's Online Dictionary 10<sup>th</sup> Edition means “in a lower place”. Therefore, the term “disposed below” means put in a lower place. It is clear from the figures of Infante and Seider that the engine is indeed put in a lower place than the rear passenger seat in each prior art reference.

Regarding the relationship between length and width of the vehicle as claimed, it is noted above that Infante does suggest wider vehicles than shown in the figures. Furthermore, the altering of a dimensional relationship between the length and width of the vehicle is well within the skill and creativity level of an ordinary worker in the art. Such altering is common in the art and is evidenced by the statistics on wheelbase and vehicle track that are common in when describing a vehicle. The specific relationship claimed is well within the range of ordinary vehicle width to length ratios.

Applicant's assertion that the vehicle of Infante "has a disproportioned width and overall length so that the vehicle can't fit into existing parking spaces and/or the vehicle has a high center of gravity" is pure conjecture. Especially considering the statements of Infante that his invention helps solve the problem of "finding a parking space" (page 1, lines 2-3) and that the vehicle is of "reduced size, similar to that of a common motorcycle" (page 1, lines 13-14). These statements taken in conjunction with claim 9 of Infante wherein he contemplates wider chassis vehicles, as well as applicant's own admission that the drawings of Infante are not to scale, demonstrate that the dimensional relationship claimed is obvious to one of ordinary skill in the art at the time the invention was made.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vaughn T. Coolman whose telephone number is (571) 272-6014. The examiner can normally be reached on Monday thru Friday, 8am-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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v/c  
11/12/07

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Examiner  
Art Unit 3618

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